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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,245	02/12/2002	Rakesh Mathur	9D-HR-19761	5065

7590

07/16/2003

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,245

Applicant(s)

MATHUR ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 21 is/are rejected.
- 7) ☐ Claim(s) 15-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the second office action for U.S. Application 10/074,245 for a Spill Proof Shelf Assembly Method and Structure filed by Rakesh Mathur et al. on February 12, 2002.

Drawings

The drawings are objected to because figure 8 appears to be incorrect. Figure 8 is a bottom perspective view, however, the lines for that view appear to be incorrect (for example, 46 appears to be on the bottom of the apparatus, rather than the top). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

Claims 15-20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose a shelf with a first side and forward and rear tabs extending respective first and second distances from the first side, whereby the first distance is less than the second distance, and a first shelf side support with a laterally projecting ledge for sliding engagement with the shelf, whereby the ledge has a rear portion sufficient for retaining the rear tab, a forward

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portion with a second width less than the width of the rear portion and providing a clearance for the rear and forward tab and one of the following: whereby the forward tab is configured to be forward of the ledge rear portion and under the ledge forward portion when the shelf is in the fully extended position; or whereby the side support has a plurality of support members that rigidly connect the side support and contact the forward tab when the shelf is in the first extended position.

Claim Rejections - 35 USC § 102

Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fish et al. Fish et al. discloses a system for limiting outward movement of a slide-out shelf (46) that has a plurality of side supports (50 and 52) configured to support the shelf and having a ledge with a clearance portion (78 and the portion under it). There is also a plurality of support members (54 and 56) configured to rigidly connect the side supports and contact a portion of the shelf thereby blocking forward movement of the shelf (see col. 7, lines 41-43). The shelf has integral forward and rear stop tabs (148 and 144) and the front tabs extend laterally, while the rear tabs extend longitudinally.

Claim Rejections - 35 USC § 103

Claims 1, 2, and 6-14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbe et al. in view of Liang et al. Kolbe et al. discloses a system for limiting outward movement of a slide-out shelf. There is a plurality of side supports (23 and 24) with ledges (28 and the portion under it) that have a clearance portion,

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configured to support the shelf and there are support members (26) configured to rigidly connect the side members. The shelf is configured extends outward in a first direction and retracts inward in a second direction opposite the first direction. The ledge of the shelf appears to be wider at the rear portion the front portion (see fig. 2). Each ledge also has clearance portions (formed throughout the side support under the ledge 28) for supporting the shelf. Kolbe et al. does not disclose a plurality of gussets and gusset tabs configured to contact a portion of the shelf to block further movement.

Liang et al. discloses a shelving system with a side support (10 and 20) with ledges that have a clearance portion (the top of the inner channel) that has a rear portion (10) that is wider than the forward portion (20). The side support has an integral gusset that extends laterally inwards from it with a tab (41A or 41b) and the gusset is configured to contact a portion of a shelf to block further movement of the shelf. The shelf has rear and forward stop tabs (32b and 32a) and there is a clearance portion (the groove) for each tab so that the shelf can be extended until the tabs contact the gusset thereby preventing outward movement. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided tabs and gussets on the shelf and support system taught by Kolbe et al., as taught by Liang et al., for the purpose of limiting the movement of the shelf.

Response to Arguments

Applicant's arguments filed April 29, 2003 have been fully considered but they are not persuasive. Applicant argues that Fish et al. does not disclose side supports

with a ledge portion, however, Fish et al. does disclose side supports with ledge portions (see rejection above). Applicant also argues that the system disclosed by Fish does not prevent outward movement of the shelf, however, the side supports contact the shelf and prevent it from moving outward.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Liang et al. discloses a system for limiting outward movement of a sliding shelf assembly. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized the teaching of Liang et al., to provide a sliding shelf assembly with limited movement.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

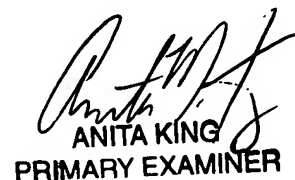
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven M. Marsh

July 14, 2003



ANITA KING
PRIMARY EXAMINER